

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RAYMOND OWEN,

Petitioner,

vs.

ROB JEFFREYS,

Respondent.

8:23CV266

MEMORANDUM AND ORDER

Petitioner filed a Petition for a Writ of Habeas Corpus under [28 U.S.C. § 2241](#), challenging the validity of a Florida detainer. [Filing No. 1](#). Petitioner submitted a Motion to Dismiss, [Filing No. 10](#). Petitioner asks the Court to dismiss this matter without prejudice. *Id.*

The Court construes Petitioner's motion as a motion to dismiss pursuant to [Federal Rule of Civil Procedure 41](#).¹ [Rule 41\(a\)](#) states that a plaintiff may dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(i\)](#). In addition, [Rule 41\(a\)\(2\)](#) provides that an action may be dismissed at the plaintiff or petitioner's request "on terms that the court considers proper." [Fed. R. Civ. P. 41\(a\)\(2\)](#). Here, Petitioner asks the Court to dismiss this action before the Court has conducted any review of the petition and before any response by the Respondent has been required. Upon consideration, the Motion to Dismiss will be granted and Petitioner's other pending Motions will be denied as moot.

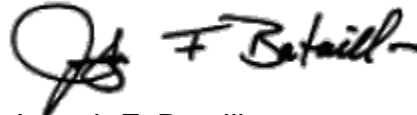
¹ The Federal Rules of Civil Procedure apply to habeas corpus proceedings "to the extent that the practice in those proceedings: (A) is not specified in a federal statute, the Rules Governing Section 2254 Cases, or the Rules Governing Section 2255 Cases; and (B) has previously conformed to the practice in civil actions." [Fed. R. Civ. P. 81\(a\)\(4\)](#).

IT IS THEREFORE ORDERED that:

1. Plaintiff's request for dismissal of this action, [Filing No. 10](#), is granted and this matter is dismissed without prejudice at Petitioner's request. No certificate of appealability will be issued.
2. Plaintiff's remaining pending motions are denied as moot.
3. A separate judgment will be entered in accordance with this Memorandum and Order.

Dated this 17th day of July, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon". The signature is stylized with a large initial "J" and a long horizontal stroke extending to the right.

Joseph F. Bataillon
Senior United States District Judge